

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Telecommunications Division
Public Programs Branch ***

**RESOLUTION T-16595
October 25, 2001**

R E S O L U T I O N

RESOLUTION T-16595. APPROVAL OF THE SECOND AMENDMENT TO THE AMENDED MASTER AGREEMENT BETWEEN THE DEAF AND DISABLED TELECOMMUNICATIONS PROGRAM ADMINISTRATIVE COMMITTEE (DDTPAC) AND SPRINT COMMUNICATIONS COMPANY L.P. (SPRINT) TO INCREASE THE CALIFORNIA RELAY SERVICE (CRS) RATE PER CONVERSATION MINUTE AND TO CONTINUE CRS SERVICE.

SUMMARY

This resolution approves the Second Amendment to the Amended Master Agreement (Agreement) that has been executed between the DDTPAC and Sprint which increases reimbursement rates for CRS through October 11, 2002, or later if extended at the Deaf and Disabled Telecommunications Program's (DDTP) option, and incorporates all of the conditions set forth in Commission Resolution T-16516, which established for MCI/WorldCom (WorldCom) a new reimbursement rate for CRS and extended the term of the Master Agreement through October 11, 2002, with additional extensions available in three-month increments.

The Agreement gives Sprint an increase to the existing CRS reimbursement rate of \$1.09 per conversation minute to \$1.34 retroactive from January 1, 2001 through June 18, 2001. From June 19, 2001, through October 11, 2002, the reimbursement rate will increase to \$1.35 per conversation minute.

Effective October 11, 2001, and through October 11, 2002, the term of this Agreement shall continue with Sprint designated as a Secondary Provider. The DDTP in its sole discretion shall have the option to further extend this Agreement in three-month increments after October 11, 2002, as long as the DDTP provides Sprint ninety (90) days' advance written notice.

Sprint will retain, throughout the remaining term of the Agreement and any extensions, at least one CRS Project Manager based in California. Sprint will provide a minimum annual expenditure of \$250,000 in outreach and education throughout the state of California and will provide an additional annual expenditure of \$25,000 to be used as directed by the DDTP for additional outreach and education.

Sprint, as a Secondary Provider, shall have the option to terminate service under this Agreement upon providing ninety (90) days' advance written notice to the DDTP, in the event their CRS call volumes drop below 15% of the total CRS call volumes in any given month.

BACKGROUND

The Commission approved a Master Agreement for the CRS in Resolution T-15933, dated July 3, 1996. The Amended Master Agreement expires October 11, 2001. The Master Agreement provides for both primary and secondary providers. The Master Agreement and the First Amendment to the Master Agreement also provide for liquidated damages for (1) Excessive Call Blockage and (2) Excessive Time To Answer Calls. Only the primary provider is permitted to use the current CRS 800 numbers. Secondary providers are required to use their own 800 numbers for access to the CRS. Currently, WorldCom is the primary provider and Sprint is the secondary provider.

On September 11, 1997, Sprint began offering CRS as a secondary provider at the rate of \$0.89 per conversation minute pursuant to Commission Resolution T-16084, dated September 3, 1997. On October 22, 1998, the Commission approved Resolution T-16207 that provided for the CRS rate to be increased from \$0.699 to \$0.89 per conversation minute for WorldCom. On October 22, 1998, the Commission approved Resolution T-16209 that raised the CRS rate from \$0.89 to \$1.09 for Sprint, approved the First Amendment between Sprint and the DDTPAC, and authorized the DDTPAC to offer this CRS rate to all other providers who meet the criteria set forth in this resolution. On December 17, 1998, the Commission approved Resolution T-16262 that increased the CRS rate from \$0.89 to \$1.09 for WorldCom and approved the First Amendment between WorldCom and the DDTPAC. The Federal Communications Commission (FCC), by order dated June 5, 2000, has imposed new requirements for the provision of relay services that have increased the cost to provide the service.

In Resolution T-16516 dated May 24, 2001, the Commission directed DDTPAC to execute a Second Amendment with WorldCom to the Amended Master Agreement. WorldCom would be provided an increase to the existing CRS reimbursement rate of \$1.09 per conversation minute to \$1.35 per conversation minute retroactive to January 1, 2001. The reimbursement rate for Speech to Speech session minutes would be at the flat rate of \$2.70 effective January 1, 2001. The Master Agreement would be extended

from October 12, 2001, through October 11, 2002, and subsequently in three-month increments with 90 days prior written notice to WorldCom. During the CRS Master Agreement and any extensions thereof, WorldCom will maintain at least one California-based manager; WorldCom will provide a minimum annual expenditure of \$250,000 in outreach and education throughout the state of California; WorldCom will provide an additional annual expenditure of \$25,000 to be used as directed by the DDTP for additional outreach and education and WorldCom will remain the primary provider of CRS.

On June 19, 2001, DDTPAC and WorldCom made a compliance filing in response to Resolution T-16516. Telecommunications Division (TD) staff reviewed this compliance filing and considered the filing in compliance with Resolution T-16516.

NOTICE/PROTESTS

Notice of Sprint's Agreement for CRS Services was published in the Commission Daily Calendar of September 10, 2001. No protest to this letter request has been received.

DISCUSSION

In this resolution, the Commission adopts the Agreement between the DDTPAC and Sprint for CRS Services set forth in APPENDIX A.

This resolution provides the DDTP with a secondary CRS Service provider. Sprint will be reimbursed at the rate of \$1.34 per conversation minute from January 1, 2001, through June 18, 2001.

To receive this rate and any subsequent increases, Sprint must have been fully compliant with all FCC standards required on December 18, 2000, and on March 1, 2001, except for the requirement regarding the handling of emergency calls, and with all current Master Agreement, Amended Master Agreement and First Amendment to Amended Master Agreement requirements. In order to determine whether Sprint is in full compliance with the FCC requirements, the DDTP may monitor Sprint's performance as provided in Section 12 of the Master Agreement.

From June 19, 2001, through October 11, 2001, and from October 12, 2001, through October 11, 2002, or later if extended at DDTP's option, Sprint shall be reimbursed at the rate of \$1.35 per conversation minute plus any additional cost items approved by both the DDTP and the CPUC.

In the compliance filing dated June 19, 2001, between DDTPAC and WorldCom, the reimbursement rate per conversation minute paid to WorldCom is \$1.35 effective January 1, 2001. WorldCom also provides Speech to Speech (STS) at \$2.70 per session minute effective January 1, 2001. WorldCom is the Primary Provider of CRS services in California and, as such, is the only provider of STS services.

The DDTP will not compensate Sprint for any costs incurred for start up or termination of the operation of its CRS or for Sprint's marketing efforts for other than supporting its role as a CRS provider. Sprint agrees to expend an amount annually of not less than \$250,000 to promote the use of CRS through outreach and education within the State of California, no more than thirty percent of which shall be expended for labor costs. Sprint shall expend an additional amount of not less than \$25,000 annually to be used as directed by the DDTP for additional outreach and education.

Effective October 11, 2001, and through October 11, 2002, the term of the agreement shall continue with Sprint. The DDTP, in its sole discretion, shall have the option to further extend the agreement in three-month increments after October 11, 2002, as long as the DDTP provides Sprint ninety (90) days' advance written notice.

Sprint must comply with all requests by either the DDTP or the CPUC to audit Sprint's books and records, wherever located, to ensure that Sprint has complied with the requirements and obligations of the Master Agreement, as amended.

Upon the formal approval of this Second Amendment to the Amended Master Agreement by the CPUC, Sprint shall hire (if it has not already done so) and retain throughout the remaining term of this Agreement and any extensions at least one CRS Project Manager based in California.

Sprint shall transition CRS traffic to new vendors during the concluding ninety days of the Master Agreement, as amended, in order to implement a phased-in transition of traffic to new vendors, at the DDTP's sole discretion and direction.

In the Compliance Filing dated June 19, 2001, between the DDTPAC and WorldCom, the same terms for Sprint above were accepted by WorldCom.

Sprint is designated a Secondary Provider of CRS services while WorldCom is a Primary Provider.

The Agreement gives Sprint the option to terminate service as a Secondary Provider upon providing ninety (90) days' advance written notice to the DDTP, in the event Sprint's CRS call volumes drop below 15% of the total CRS call volumes in any given month.

Sprint has concerns that once 711 service is implemented in California, most activity will, by default, be directed to WorldCom. Where CRS users now call 800 numbers, the ability to use 711 will greatly simplify contacting CRS resources. Though it is the preference of DDTP to have a Secondary Provider of CRS services, DDTP agrees with Sprint's need for an option to discontinue service if call volumes do not meet Sprint's expectations.

COMMENTS

This draft resolution was mailed on September 25, 2001, in accordance with PU Code Section 311(g)(1) to the parties of record in I.87-11-031. A copy of the draft resolution is available on the Commission's website at www.cpuc.ca.gov by searching for T-16595. TD will inform the parties of record in I.87-11-031 of the availability of the conformed resolution at the same website. A hard copy of the conformed copy of the resolution will be provided to all parties on the appropriate service lists.

Comments received on a timely basis will be addressed by TD in this resolution. No comments were filed.

FINDINGS

1. The Deaf and Disabled Telecommunications Program request to adopt the executed Second Amendment to the Amended Master Agreement between the DDTPAC and Sprint is reasonable and should be adopted.

THEREFORE, IT IS ORDERED that:

1. The Commission approves the Second Amendment to the Amended Master Agreement between the DDTPAC and Sprint for CRS services.

October 25, 2001

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on October 25, 2001. The following Commissioners approved it:

/s/ WESLEY M. FRANKLIN

WESLEY M. FRANKLIN
Executive Director

LORETTA M. LYNCH
President
HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners

APPENDIX A

SECOND AMENDMENT TO AMENDED MASTER AGREEMENT FOR CRS SERVICES

This Second Amendment to Amended Master Agreement for CRS Services ("Agreement") is entered into as of the date of California Public Utilities Commission) approval between the Deaf and Disabled Telecommunications Program Administrative Committee ("DDTPAC") and Sprint Communications Company L.P.

RECITALS

- A. Pursuant to state legislation and the directives of the CPUC, the DDTPAC administers telecommunications programs for California residents who are deaf, hearing impaired, or disabled. These programs include the provision of the California Relay Service ("CRS").
- B. In 1996, the DDTPAC entered into a contract with MCI Telecommunications Corporation to act as the Primary Provider of CRS in California pursuant to the terms and conditions of a written master agreement (the "Master Agreement"). In September 1997, the DDTPAC entered into a contract with Sprint (the "Amended Master Agreement") to act as a Secondary Provider of CRS in California. The Amended Master Agreement incorporated the terms and conditions of the Master Agreement except as specifically provided in the Amended Master Agreement.
- C. In August 1998, the DDTPAC and Sprint entered into a First Amendment to the Amended Master Agreement which the CPUC approved effective October 22, 1998.
- D. On March 6, 2000, the Federal Communications Commission ("FCC") issued a Report and Order and Further Notice of Rulemaking on telecommunications relay services ("TRS"). The Report and Order amended the FCC's rules governing TRS to expand the types of relay services available to consumers and to improve the quality of relay services. On June 5, 2000, the FCC issued an Order on Reconsideration in the same docket establishing the required effective date for the new standards as December 18, 2000, except for required Speech-to-Speech and interstate Spanish relay services, which were required to be provided by March 1, 2001.
- E. Sprint has informed the DDTPAC that it cannot meet the new FCC requirements in California without revisions to the rate structure provision contained in the Amended Master Agreement and in the First Amendment to the Amended

Master Agreement. The parties have agreed to make requested rate structure and term changes to the parties' agreement subject to the approval of the CPUC.

Therefore, in consideration of the mutual covenants contained herein and for other valuable consideration, the parties agree as follows:

1. Section 7 of the Master Agreement, Paragraph 5 of the Amended Master Agreement, and Paragraph 1 of the First Amendment to Amended Master Agreement are replaced with the following:

“From January 1, 2001 through June 18, 2001, the Contractor shall be reimbursed for invoices submitted based on actual monthly call volumes billed at the rate of \$1.34 per conversation minute plus any additional cost items approved by both the DDTP and the CPUC, subject to meeting the conditions described below and in the Master Agreement, as amended by the Amended Master Agreement and by the First Amendment and this Second Amendment to the Amended Master Agreement.

From June 19, 2001 through October 11, 2001, and from October 12, 2001 through October 11, 2002 or later if extended at the DDTP's option, the Contractor shall be reimbursed at the rate of \$1.35 per conversation minute plus any additional cost items approved by both the DDTP and the CPUC, subject to meeting the conditions described below and in the Master Agreement, as amended by the Amended Master Agreement and by the First Amendment and this Second Amendment to the Amended Master Agreement.

The \$1.35 per conversation minute rate shall apply irrespective of the volume of traffic carried by Contractor. No additional amount, including the premium set forth in Section 7 I.D. of the DDTP Invitation For Bid for CRS (“IFB”), shall be payable to the Contractor. The parties agree that Section 7 I.D. of the IFB is void and deleted.

To receive the \$1.35 per conversation minute reimbursement rate, the Contractor must have been fully compliant with all FCC standards required on December 18, 2000 and on March 1, 2001, except for the requirement regarding the

handling of emergency calls, and with all current Master Agreement, Amended Master Agreement and First Amendment to Amended Master Agreement requirements. In order to determine whether the Contractor is in 'full compliance' with the FCC requirements, the DDTP may monitor the Contractor's performance as provided in Section 12 of the Master Agreement.

The DDTP will not compensate the Contractor for any costs incurred for start up or termination of the operation of its CRS or for the Contractor's marketing efforts. Contractor agrees to expend an amount annually of not less than \$250,000 to promote the use of CRS through outreach and education within the State of California, not more than thirty percent of which shall be expended for the Contractor's labor costs. The Contractor shall expend an additional amount of not less than \$25,000 annually to be used as directed by the DDTP for additional outreach and education.

At six month intervals, the Contractor shall disclose to the DDTP the activities, events, materials and other expenses which constitute the Contractor's outreach effort pursuant to this paragraph. The first report shall be due August 1, 2001 for expenditures from January 1, 2001 through June 30, 2001.

2. Section 2 of the Master Agreement, Paragraph 2 of the Amended Master Agreement, and Paragraph 3 of the First Amendment to the Amended Master Agreement are replaced with the following:

"This Agreement is effective upon signing by the Contractor and DDTP and formal approval of the CPUC. The term of this Agreement shall be from the date of CPUC approval through October 11, 1999, subject to availability of funds, unless earlier terminated by DDTP in accordance with the termination provisions contained in Paragraphs 23 and 24 herein. The DDTP shall have the option to extend this Agreement for up to two one-year terms as further set forth in the DDTP Invitation to Bid ("IFB").

Effective October 11, 2001, and through October 11, 2002, the term of this Agreement shall continue with the Contractor designated as a Secondary Provider under the terms of the Master Agreement as amended. The DDTP in its sole discretion shall have the option to further extend this

Agreement in three-month increments after October 11, 2002 as long as the DDTP provides the Contractor ninety (90) days' advance written notice of its desire to extend the Agreement's term for each additional three-month period. Contractor, as a Secondary Provider, shall have the option to terminate service under this Agreement upon providing ninety (90) days' advance written notice to the DDTP, in the event Contractor's CRS call volumes drop below 15% of the total CRS call volumes in any given month. "

3. Sprint shall comply with all requests by either the DDTP or the CPUC to audit Sprint's books and records, wherever located, to ensure that Sprint has complied with the requirements and obligations of the Master Agreement, as amended.
4. Upon the formal approval of this Second Amendment to the Amended Master Agreement by the CPUC, Sprint shall hire (if it has not already done so) and retain throughout the remaining term of this Agreement and any extensions at least one CRS Project Manager based in California.
5. Sprint shall transition CRS traffic to new vendors during the concluding ninety days of the Master Agreement, as amended, in order to implement a phased-in transition of traffic to new vendors, at the DDTP's sole discretion and direction. For example, the DDTP could decide to transfer fixed percentages of traffic to new vendors over a ninety-day period or could decide to incrementally transfer traffic from various LATAs over a ninety-day period. The final transition schedule will be proposed no later than sixty days prior to the beginning of said schedule and will be determined by the DDTP, with input from both Sprint and the new vendors. Sprint will be reimbursed at the approved contract rate for all CRS minutes processed during the transition period.
6. All other terms and conditions of the Master Agreement, the Amended Master Agreement, the First Amendment to the Amended Master Agreement, the IFB, and Sprint's response to the IFB, including but not limited to all provisions designating Sprint as a secondary provider and regarding liquidated damages, remain in full force and effect.
7. Should any provision of this Agreement be held unlawful or otherwise unenforceable, such provision shall be severed and deemed deleted, and the remainder of this Second Amendment to the Amended Master Agreement shall continue in full force and effect as if such provision had never existed.
8. This Second Amendment to the Amended Master Agreement constitutes the entire Second Amendment to the Amended Master Agreement between the parties. No agreement, statement, or promise relating to the subject matter of this Second

October 25, 2001

Amendment to the Amended Master Agreement, other than which is contained herein, shall be valid or binding. No changes, alternatives or modifications hereto shall be effective unless in writing and signed by a representative of each party authorized to bind said party. This Second Amendment to the Amended Master Agreement may be executed in counterparts, each of which will be deemed an original and all of which shall constitute one and the same instrument.

9. This Agreement shall be governed by California law.

/s/ JOHN L. DARBY

John L. Darby
On behalf of the DDTPAC

/s/ WOODY SELLERS FOR
ANTHONY G. D'AGATA

Anthony G. D'Agata
On behalf of Sprint Communications
Company L.P.

7/24/01

Date

7/18/01

Date